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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Michael A. Kraemer

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06/08/2009

3M INNOVATIVE PROPERTIES COMPANY

PO BOX 33427

ST. PAUL, MN 55133-3427

EXAMINER

PIERRE LOUIS, ANDRE

ART UNIT

PAPER NUMBER

2123

NOTIFICATION DATE

DELIVERY MODE

06/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/550,993	Applicant(s) KRAEMER ET AL.	
	Examiner ANDRE PIERRE LOUIS	Art Unit 2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/28/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/28/2009 has been entered.

2. Claims 5, 7-11 remain cancelled and claims 1-4, 6 are presented for examination.

Response to Arguments

3. Applicant's arguments filed 5/28/2009 have been fully considered but they are not persuasive.

3.1 Applicant's argues that neither Duret nor O'Brien teach or suggest the stability requirement to includes minimum required thickness, generating control data and displaying control surface with the prosthesis, and the modified image, as recited in the claims; the Examiner respectfully disagrees and notes that O'Brien does disclose a prosthesis manufacturing process that includes providing stability requirement to includes minimum required thickness (*see O'Brien for example col.4 lines 14-47; also see Duret col.7 line 64-col.8 line 14*); again, with the aid a CAD equipment, a display monitor is used to display the dental prosthesis based on the collected digital 3D data corresponding to the surfaces of the model (*see col.2 lines 54-58*) where the image is then modified so that the modified image is displayed on the monitor to correspond to the prosthesis to be manufactured (*col.2 line 58-62*). The Examiner respectfully notes that the 3D digital data file created by O'Brien which takes into parameters such as die spacers, minimum thickness requirement of the prosthesis, contact points, grooves, cusp overlays, marginal ridges etc.. are substantially similar to the control data recited by the

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applicant (*see col.4 lines 44-47*), as, again, O'Brien discloses using these data corresponding to the surfaces to control how/where the dental prosthesis would be modeled/manufactured and would clearly be understood by one of ordinary skilled in the art (*see col.2 line 44-col.3 line 11 and col.4 lines 22-47*). Duret, brought in for further support of the rejection, discloses generating a control data using control unit 112 of fig.7 and further shows the modification of a displayed image using modification unit 11 still of fig.7, taking into consideration thickness of the material which will hold the prosthesis where a user/operator can visualize the model, making it possible to verify the exact shape of the model, during his dental prosthesis making process (*also see title, col.7 line 64-col.8 line 36*). Figure 15 further shows the modified image of a dental prosthesis with its corresponding plane.

3.2 While the Applicant believes that the independent claims along with their dependencies should be found allowable, the Examiner respectfully disagrees and asserts that the combined teachings the cited references teach the entire claimed invention, as evidenced by the grounds of rejection below along the response to arguments.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the

examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4.0 Claims 1-4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien et al. (U.S. Patent No. 6,915,178), in view of Duret et al. (U.S. Patent No. 4,663,720).

4.1 In considering the independent claims 1 and 6, O'Brien et al. substantially teaches a method for processing data regarding a dental prosthesis, the method comprising the steps of: a) providing input data which represent a three-dimensional surface of a tooth stump prepared for a prosthesis (*fig.1, col.2 lines 44-55*); b) providing stability requirements for the prosthesis, wherein the stability requirements include a minimum required thickness of the prosthesis (*fig.1, 5, col.4 line 14-col.5 line 3*); c) generating control data from said input data, said control data representing a control surface which meets the stability requirements (*col.2 line 44-col.3 line 11 and col.4 lines 14-47*); d) generating design data which represent the three-dimensional shape of the prosthesis (*col.2 line 44-col.3 line 3 and col.4 line 14-47*); and e) displaying the shape of the prosthesis together with the control surface on a monitor, wherein the displayed control surface provides a visual representation of the minimum required thickness, design data are modified by a user based on a visual comparison of the displayed design data and the displayed control surface in order to meet the stability requirements, and the design of the prosthesis corresponding to the modified design data is displayed on the monitor together with the control surface (*fig.2-4, col.4 line 14-47 and col.2 line 44-col.3 line 11*). Although O'Brien et al. does not specifically state that the generated data is a control data, as the claims call it; one of ordinary skilled in the art would clearly appreciated the approach taken by O'Brien et al. in representing the surfaces used to accurately create and display the dental prosthesis, taking into consideration die spacers, minimum thickness requirement of the prosthesis, contact points, grooves, cusp overlays,

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marginal ridges etc and are substantially similar to the control data recited by the applicant (*see fig.1-2, col.4 line 14-col.4 line 22*). Nevertheless, Duret et al. substantially teaches generating a control data output using a numerical control unit and providing an interference check used to select a best fit shape and size, during prosthesis making process (*see abstract, fig.7, also see col.6 line 17-44*). The cited references further provide the followings with regards to claim 6: (a) an input device (*see O'Brien et al. fig.5 (28), also see Duret et al. fig.7 and 21*); (b) a central unit (*see O'Brien et al. fig.5 (24 and 24A), also see Duret et al. fig.7 and 21*); and (c) a display device (*see O'Brien et al. fig.5 (30), also see Duret et al. fig.7 and 21*). O'Brien et al. and Duret et al. are analogous art because they are from the same field of endeavor and that the method teaches by Duret et al. is similar to that of O'Brien et al. Therefore, it would have been obvious to one of ordinary skilled in the art to combine the dental prosthesis of Duret et al. with the dental prosthesis manufacturing of O'Brien et al. because Duret et al. teaches the advantage of high precision and speed in the production of the prosthesis (*see col.3 lines 19-28*).

4.2 With regards to claim 2, the combined teachings of O'Brien et al. and Duret et al. substantially teach that the design data are generated from the input data (*see O'Brien et al. col.4line 4-47*).

4.3 As per claim 3, the combined teachings of O'Brien et al. and Duret et al. substantially teach the outer surface of the prosthesis is scaled differently in at least two spatial axes such that a given preparation margin remains thereby unchanged (*see O'Brien et al. fig.2-3, col.4 line 14-col.5 line 12; also see Duret et al. abstract*).

4.4 With regards to claim 4, the combined teachings of O'Brien et al. and Duret et al. substantially teach the control surface meets the stability requirements (*see O'Brien et al. fig.1-2, col.2 line 44-col.3 line 11; also see Duret et al. abstract*).

Conclusion

5. Claims 1-4, and 6 are rejected and **THIS ACTION IS Non-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDRE PIERRE LOUIS whose telephone number is (571)272-8636. The examiner can normally be reached on Mon-Fri, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul L. Rodriguez can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. L/
Examiner, Art Unit 2123

June 1, 2009

/Paul L Rodriguez/
Supervisory Patent Examiner, Art Unit 2123